

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7
Bky. Case No. 04-44519

Rochelle Marie Cavness,

Debtor.

NOTICE OF HEARING AND MOTION
FOR TURNOVER OF PROPERTY TO
THE ESTATE

TO: THE COURT, UNITED STATES TRUSTEE, THE DEBTOR, AND HER ATTORNEY:

1. Dorraine A. Larison, Trustee of the bankruptcy estate of the above-named debtor, moves the court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:30 a.m. on December 1, 2004, in Courtroom No. 7 West, at the United States Courthouse, at 300 South Fourth Street, in Minneapolis, Minnesota.

3. Any response to this motion must be filed and delivered not later than November 23, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later than November 19, 2004, which is ten (10) days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 7 case was filed on August 13, 2004. The case is now pending in this Court.

5. This motion arises under 11 U.S.C. § 542(a), and Bankruptcy Rule 9013 and Local Rule 6072-1. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to

9001-6 and 9013-1 to 9013-5. Movant requests relief with respect to turnover of property of the estate.

6. Despite numerous written requests to the debtor's attorney to surrender property or its value, the debtor has failed to surrender and continues to withhold the following described property of the estate:

100% of the 2003 property tax refund received from the Minnesota Department of Revenue by the debtor after the date of the filing of her bankruptcy petition

7. The debtor is required to surrender all property of the estate to the trustee under 11 U.S.C. § 521(4). The provisions of 11 U.S.C. § 542 require any entity in possession of property of the estate to turn such property over to the trustee.

WHEREFORE, Applicant moves the court for an order directing debtor to surrender forthwith the sum of \$1,666.00 to the undersigned trustee.

Dated this 27th day of October, 2004.

/e/ Dorraine A. Larison
Dorraine A. Larison
I.D. No. 203609
GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.
1010 West St. Germain
Suite 600
St. Cloud, MN 56301
(320) 252-4414
Attorneys for Trustee

VERIFICATION. I, Dorraine A. Larison, the movant named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: October 27, 2004

/s/ Dorraine A. Larison
Dorraine A. Larison, Trustee

GP:1639676 v1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7
Bky. Case No. 04-44519

Rochelle Marie Cavness,

UNSWORN CERTIFICATE OF SERVICE

Debtor.

I, Jean Eisenschenk, declare under penalty of perjury that on October 27, 2004, I mailed the following documents:

**NOTICE OF HEARING AND MOTION FOR TURNOVER OF PROPERTY AND
PROPOSED ORDER**

by first class mail postage prepaid to each entity named below at the address stated below for each entity:

UNITED STATES TRUSTEE
1015 US COURTHOUSE
300 SOUTH FOURTH STREET
MINNEAPOLIS MN 55415

ROCHELLE MARIE CAVNESS
9753 SUMMIT COURT
MONTICELLO MN 55362

MALIN D GREENBERG
ATTORNEY AT LAW
SUITE 1525
600 S HIGHWAY 169
ST LOUIS PARK MN 55426

Executed on: October 27, 2004

/e/ Jean Eisenschenk
Jean Eisenschenk
GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.
Suite 600
1010 West St. Germain Street
St. Cloud, MN 56301

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Chapter 7
Bky. Case No. 04-44519

Rochelle Marie Cavness,

ORDER

Debtor.

At Minneapolis, Minnesota, _____, _____.

Upon the motion of the Trustee in this case,

IT IS ORDERED: That the debtor shall turn over to the Trustee the 2003 property tax refund received by the debtor post-petition in the sum of \$1,666.00 within ten (10) days of this order.

Nancy C. Dreher
UNITED STATES BANKRUPTCY
JUDGE